

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL REGULATORY COMMISSION**

New York Independent System Operator, Inc.)

Docket No. ER20- -000

**REQUEST OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.
FOR LIMITED TARIFF WAIVER**

Pursuant to Rule 207(a)(5) of the Federal Energy Regulatory Commission (“Commission” or “FERC”) Rules of Practice and Procedure, 18 C.F.R. § 385.207(a)(5), the New York Independent System Operator, Inc. (“NYISO”) hereby respectfully requests a temporary, limited waiver of one provision of Section 4.4.1.2.1 of the NYISO’s Market Administration and Control Area Services Tariff (“Services Tariff”) (“Waiver Request”). Services Tariff Section 4.4.1.2.1 includes a provision that permits a Generator to increase its Minimum Generation Bid in real-time when it only received a Day-Ahead schedule to provide Non-Synchronous Operating Reserves.¹ The purpose of the provision is to allow Generators that can be started-up by the Real-Time Market software to Bid their real-time costs (including minimum generation costs) for consideration by the NYISO’s economic evaluation. However, the NYISO recently determined that a Generator that only receives a Day-Ahead schedule to provide Non-Synchronous Operating Reserves cannot presently increase its Minimum Generation Bid in the Real-Time Market. The NYISO is working to correct the identified

¹ Capitalized terms that are not otherwise defined in this filing letter shall have the meaning specified in the Open Access Transmission Tariff or Services Tariff.

concern and expects to be able to deploy the necessary software improvements in the fourth quarter of this year.

Granting this Waiver Request will provide the NYISO the time necessary to develop and test software modifications to allow suppliers to increase Minimum Generation Bids in real time, consistent with Services Tariff Section 4.4.1.2.1. The NYISO proposes to deploy the necessary improvements along with other enhancements that the NYISO proposed in its fast-start compliance filing and the Commission accepted.² The software modifications to address the issue discussed herein and Fast-Start Pricing revisions are being developed as a combined package due to the complexity of making and testing changes to the bidding and scheduling systems. The full set of software modifications will be deployed by the end of this year consistent with NYISO's Fast-Start Pricing Order compliance obligations.³

The NYISO requests that this waiver remain in place for a temporary period, not to extend beyond December 31, 2020.⁴

² *New York Independent System Operator, Inc.*, Docket No. ER20-659-000 (Feb. 6, 2020) (unpublished letter order). The Commission accepted the NYISO's proposed revisions to reflect fast-start resources' commitment costs in the price setting process ("Fast-Start Pricing"). Consistent with the Commission's directives, the NYISO will implement the Fast-Start Pricing revisions by the end of 2020.

One component of the NYISO's Fast-Start Pricing implementation revises Services Tariff Section 4.4.1.2.1 to allow fast-start Resources to increase the dollar component of their Minimum Generation Bids and Regulation Service Bids in the Real-Time Market, compared to the fast-start Resource's Day-Ahead Bids, even when the fast-start Resources received a Day-Ahead Energy or Regulation Service schedule. The described change requires modifications to the same bidding and scheduling systems as the improvements needed to address the concern described in this Waiver Request.

³ *Order on Paper Hearing*, Docket No. EL18-33-000, 167 FERC ¶ 61,057 (April 18, 2019).

⁴ The NYISO also requests that the Commission excuse any instances of past non-compliance with the provision at issue. Any past instances of the concern that the requested waiver will address cannot be corrected or reversed.

I. Background

Services Tariff Section 4.4.1.2.1 sets forth a number of rules related to real-time Bids to supply Energy and Ancillary Services. For example, Section 4.4.1.2.1 states that real-time Minimum Generation Bids or Regulation Service Bids may not exceed the corresponding Bids submitted for that Resource in the Day-Ahead Market in any hour in which the Resource received a Day-Ahead Energy schedule or Regulation Service schedule.

The Tariff requirement at issue in this Waiver Request is related to the NYISO's implementation of the rule prohibiting increasing Minimum Generation Bids when the Resources receives a Day-Ahead Energy or Regulation Service schedule. The Services Tariff does not prohibit a Generator from increasing its Minimum Generation Bid in real-time when it *only* received a Day-Ahead schedule to provide Non-Synchronous Operating Reserves and is not scheduled Day-Ahead to provide Energy or Regulation Service.

The existing software appropriately implements the Services Tariff Section 4.4.1.2.1 prohibition on increasing Minimum Generation Bids or Regulation Service Bids in real-time when that Resource received a Day-Ahead Energy schedule or Regulation Service schedule. However, the bidding and scheduling software inadvertently extended this prohibition to real-time Minimum Generation Bids and Regulation Service Bids when a Generator only received a Day-Ahead schedule for Non-Synchronous Operating Reserves.

When the NYISO initially developed the software necessary to implement the rules in Services Tariff Section 4.4.1.2.1, only one or two Generators that submitted a Minimum Generation Bid could also provide Non-Synchronous Operating Reserves. Today, there are approximately a dozen Generators in the New York Control Area that submit a Minimum Generation Bid and are capable of providing Non-Synchronous Operating Reserves.

II. Request for Waiver

The Commission traditionally grants a “waiver of tariff provisions where: (1) the applicant acted in good faith; (2) the waiver is of limited scope; (3) the waiver addresses a concrete problem; and (4) the waiver does not have undesirable consequences, such as harming third parties.”⁵ The NYISO respectfully submits that the circumstances here are fully consistent with these criteria.

The NYISO has acted in good faith in its administration of Services Tariff Section 4.4.1.2.1, and has not intentionally disregarded the opportunity for a Generator to increase its Minimum Generation Bid in real-time when it only received a Day-Ahead schedule to provide Non-Synchronous Operating Reserves. Rather, the NYISO inadvertently omitted a discrete component of bidding logic from the software at a time when just one or two Generators could have utilized this bidding option. When the NYISO became aware of the discrepancy between the NYISO’s software limitation and Services Tariff Section 4.4.1.2.1 through discussions with a Market Participant, it took action to address the issue, including submitting this filing. The NYISO also acted diligently to incorporate this software modification into its Fast-Start Pricing project that was already underway. Developing these software modifications as a package is the most effective way to address this issue due to the complexity of making and testing changes to the bidding and scheduling systems. Accelerating a stand-alone software fix to address the issue described herein could introduce unnecessary risk to the bidding and scheduling systems and is unlikely to be deployed significantly earlier than the Fast-Start Pricing project software.

⁵ *Citizens Sycamore-Pensquitos Transmission LLC*, 169 FERC ¶ 61,263 at P 14 (2019).

This Waiver Request is of limited scope because it involves a single tariff provision. Specifically, the waiver only alleviates the obligation for NYISO to allow Suppliers to increase Minimum Generation Bids in real-time when a Generator(s) only received a Day-Ahead schedule to provide Non-Synchronous Operating Reserves. The scope of the requested waiver should thus be clearly understandable to all NYISO Market Participants. The NYISO requests a temporary waiver that will only be in effect for the period that is practicably necessary for the NYISO to code software modifications, perform the necessary quality assurance testing, and deploy the software consistent with its standard software development practices. Accordingly, the NYISO requests that the waiver remain in place until the software modifications can be deployed during the fourth quarter of 2020. The NYISO commits to notify the Commission and its stakeholders as soon as the necessary software improvements are deployed.

The requested waiver is necessary to address a concrete problem – *i.e.*, the existing software logic prohibits a bidding approach that the Tariff permits. The waiver is requested to allow the NYISO to develop and implement software consistent with its business practices and not to rush a software patch that could have detrimental effects on the bidding software or other software systems.

Finally, the NYISO does not expect the waiver to adversely impact any party because the affected Generators are aware of the issue and can submit Day-Ahead Bids that are designed to recover their cost of providing minimum generation MWs in real-time. The effect of the waiver is to permit the existing software logic to remain in place for a limited period of up to eight months. By contrast, denying the waiver could needlessly require the NYISO to hastily develop and deploy a software fix that could inadvertently introduce more significant concerns into the markets that the NYISO administers.

III. Communications

Communications regarding this proceeding should be sent to:

Robert E. Fernandez, Executive Vice President &
General Counsel
Karen Georgenson Gach, Deputy General Counsel
Raymond Stalter, Director, Regulatory Affairs
*James H. Sweeney, Senior Attorney
New York Independent System Operator, Inc.
10 Krey Boulevard
Rensselaer, NY 12144
Tel: (518) 356-6000
Fax: (518) 356-4702
rfernandez@nyiso.com
kgach@nyiso.com
rstalter@nyiso.com
jsweeney@nyiso.com

* Persons designated for receipt of service.

IV. Conclusion

For the reasons specified above, the NYISO respectfully requests that the Commission grant this request for a temporary, limited waiver of Services Tariff Section 4.4.1.2.1 to permit the NYISO to temporarily continue preventing Generators from increasing Minimum Generation Bids in real-time after they receive Day-Ahead schedules to provide

Non-Synchronous Operating Reserves until it deploys software to correct the identified concern,
which NYISO will do no later than December 31, 2020.

Respectfully submitted,

/s/ James H. Sweeney

James H. Sweeney, Senior Attorney
New York Independent System Operator, Inc.
10 Krey Boulevard
Rensselaer, NY 12144

Dated April 1, 2020

cc: Anna Cochrane
Jignasa Gadani
Jette Gebhart
Kurt Longo
John C. Miller
David Morenoff
Daniel Nowak
Larry Parkinson
Douglas Roe
Frank Swigonski
Eric Vandenberg
Gary Will